

JUL-14-2004 12:00

US EPA

07/14/04 01:59pm P. 001

202 501 1817 P.02



Hamilton County

Board of County Commissioners

John S. Dowlin
Commissioner
President of the Board
Phone (513) 946-4409
Fax (513) 946-4404

Phil Helmlich
Commissioner
Phone (513) 946-4409
Fax (513) 946-4407

Todd Portune
Commissioner
Phone (513) 946-4401
Fax (513) 946-4440

Room 603
County Administration Building
138 East Court Street
Cincinnati, Ohio 45202

TDD/TTY: (513) 946-4719
www.hamilton-co.org

July 6, 2004

Spencer Abraham
Secretary of Energy
U.S. Department of Energy
1000 Independence Avenue, S.W.
Washington D.C. 20585

Michael O. Leavitt
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W. (1101)
Washington D.C. 20460

John D. Ashcroft
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Bharat Mathur
Acting Regional Administrator
Region V
U.S. Environmental Protection Agency
77 West Jackson Boulevard
Chicago, Illinois 60604

Fernald Environmental Management Project

Dear Sirs,

Attached you will find a copy of the Resolution passed March 3, 2004 by the Board of Hamilton County Commissioners of the State of Ohio. We share this with you in hopes that you will take the appropriate action to ensure there will be no deviation from the agreed to Records of Decision.

We stand behind our previously approved resolution and trust that all parties will follow the Records of Decision will stand behind the strict interpretation of each component even through Risk Base End State process or Operable Unit 4 decisions. We also trust

JUL-14-2004 12:08

US EPA

202 501 1817 P.03

that there will be a safe clear path for continuous removal and transport from the Fernald site.


Discussions here at the local level with representatives from the site have indicated that they have abandoned their earlier concept of extraction prior to having a sure clear safe path off of the Fernald project site and have committed to extract only if such a clear path exists. We would ask that you honor the sentiment expressed by the local DOE.

We are aware that the Attorney General of the State of Ohio has issued a Notice of Intent to File Suit against the Department of Energy which we are poised to support in the event that full compliance with the RODS is not achieved.

Sincerely,


John Dowlin, President


Phil Helmlich


Todd Portune

Post-It® Fax Note		7671	Date	7/14/04	# of Pages	2
To	Lisa Crawford		From	Karen Ball		
Co./Dept.			Co.			
Phone #	948-3777		Phone #	946-4402		
Fax #	948-3811		Fax #	946-4446		

TOTAL P.03



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

JUL 26 2004

REPLY TO THE ATTENTION OF: R-19J

Mr. John Dowlin
Mr. Phil Heimlich
Mr. Todd Portune
Office of the Hamilton County Commissioner
Room 603
County Administration Building
138 East Court Street
Cincinnati, Ohio 45202

LIBRARY: _____
FILE: 6446.bcaj
2004 AUG - 2 P 1:11
LOG E-0957
FERNALD

Dear Sirs:

Thank you for your July 6, 2004, letter to Administrator Leavitt presenting the resolution passed March 3, 2004, by the Board of Hamilton County Commissioners of the State of Ohio. The Administrator has asked me to respond on his behalf. The resolution supports the continued and strict adherence to the Record of Decisions (ROD) at the United States Department of Energy (U.S. DOE) Fernald, Ohio Superfund site.

The United States Environmental Protection Agency (U.S. EPA) is actively conducting oversight of the cleanup and is involved with U.S. DOE, the Ohio Environmental Protection Agency (OhioEPA) and the various stakeholders to ensure the cleanup is conducted in a safe, environmentally protective, and timely fashion.

Although U.S. DOE has the lead in resolution of issues with the State of Nevada and the shipment of the Silos materials to the Nevada Test Site, U.S. EPA is keeping a close watch on the activities at the Fernald, Ohio Site. U.S. EPA has had numerous communications with U.S. DOE, Ohio EPA, and the Ohio Attorney General regarding the Silos project. It is U.S. EPA's position that the existing ROD for the Silos project should be implemented and we are working on accomplishing that task.

U.S. EPA supports the resolution of the Board of Hamilton County Commissioners of the State of Ohio and will continue to work with all of the stakeholders to ensure that the Fernald, Ohio cleanup proceeds as planned.

If you have any questions regarding this matter please contact James Saric of my staff at (312) 886-0992.

Very truly yours,

Original Signed by
Norman R. Niedergang

Bharat Mathur
Acting Regional Administrator

cc:

Spencer Abraham, U.S. DOE
John D. Ashcroft, U.S. DOJ
Bill Taylor, U.S. DOE-Fernald
Tom Winston, Ohio EPA

RESPONSE TO STAKEHOLDER COMMENTS ON FCP DRAFT RBES VISION

The following provides responses to the general categories of Stakeholder comments received on the Draft RBES Vision for the FCP. The general categories of comments listed below have been taken from the numerous letters received by DOE and from verbal comments received during public forums held on the RBES process.

1. Many reviewers stated that Fernald was too far along in the cleanup process to become involved in the RBES process. With Closure scheduled for 2006, many reviewers felt it was too late for the RBES process at Fernald.

The DOE feels that the RBES process is worth undertaking at Fernald and may identify opportunities to reduce costs, while maintaining protectiveness, between now and Closure. The DOE has always looked for ways to decrease costs to the taxpayers, while maintaining full protectiveness during cleanup. DOE remains in full compliance with the five Records of Decision (ROD) that govern remediation of the Fernald Site, and is legally required to continue to comply with those RODs. DOE also fully understands that it cannot unilaterally change any portion of the five RODs. It is not the intent of the RBES process to compromise, in any manner, the ability to reach closure of the Fernald Site in 2006.

2. Some reviewers felt that the “RBES process” was essentially carried out during development of the five RODs at Fernald and during the evaluation of cleanup changes considered since the signing of the RODs. Reviewers stated that RBES is not something new at Fernald, but has been ongoing for years.

The DOE fully agrees that there have been a number of examples where processes very similar to RBES have been undertaken in developing and evaluating changes to the RODs at Fernald. The DOE understands and appreciates the significant contribution that Stakeholders and Regulators have provided in working out changes to cleanup approaches that have resulted in significant cost savings, while maintaining protectiveness. The RBES process is intended to be a formalized, complex-wide process to accomplish the same types of successes that have been realized at Fernald and other DOE Sites.

3. There was widespread rejection of the alternatives outlined in both versions of the Draft RBES Vision. Many comments focused specifically on disapproval of the groundwater alternative discussing changes to discharge limits to the Great Miami River and the use of monitored natural attenuation (MNA).

There is a clear understanding of the objection that Stakeholders and Regulators have to the opportunities outlined in the RBES Vision. The Fernald RBES Vision has been revised to remove the discussion regarding changes to the discharge limits and the use of MNA in groundwater restoration. The DOE would request that reviewers consider each of the opportunities identified on its own merit and not disregard all proposals due to a dislike of the entire process. The DOE will continue to work closely with Stakeholders and Regulators and consider all input received throughout the RBES process.

4. There were numerous comments about the lack of public and regulatory involvement in the RBES process. Related comments focused on Stakeholders becoming involved late in the RBES Process and the process generally being damaging to Stakeholder relations.

The RBES Vision was intended to identify all technically supportable, risk-based opportunities for consideration. It is important to note that the RBES Vision is not a decision document and is being developed pursuant to the DOE guidance document. The DOE did make the document available to Stakeholders and Regulators, hold a public meeting on the process and have had numerous informal discussions on the matter meeting the intent of the guidance documents. The Stakeholders and Regulators will have full involvement in the RBES process from this point forward. It is also important to note that DOE cannot unilaterally make any change to a ROD and will have full Stakeholder and Regulator involvement in proposal to change a cleanup decision at Fernald. The DOE has always worked very closely and successfully with Stakeholders and Regulators and plans to continue this close working relationship in the future.

5. Many comments stated that the RBES Process was not a good use of site resources and was an unnecessary distraction from cleanup. Related comments stated that the RBES Process was essentially a waste of money at Fernald.

The DOE feels that the RBES process is worth undertaking at Fernald and may identify opportunities to reduce costs, while maintaining protectiveness, between now and Closure. It is important to note that the RBES process is being considered across the DOE complex and while cost reductions at one particular site may seem small, the cumulative impact of the process may be very significant.

6. Many reviewers felt that the RBES Process was only focused on saving money and would result in a lower quality cleanup at the site.

The DOE has always looked for ways to decrease cost to the taxpayers, while maintaining full protectiveness during cleanup. It is important that any type of organization periodically evaluate how it conducts business. The RBES process is a formal, complex-wide review of how DOE is approaching cleanup to ensure that the taxpayers are getting the most benefit for their tax dollar. It is important to note that any proposed change to cleanup decisions at Fernald would require that the remedy remain protective of human health and the environment and would have full Stakeholder and Regulator involvement.

7. There was a single comment supporting the idea of leaving the Outfall Lines in place.

This comment from the property owner will be included in the Final RBES Vision with all other comments received to date and will be fully evaluated as the next phase of the RBES process is undertaken.

FINAL DRAFT RBES VISION DOCUMENT

INFORMAL PUBLIC MEETING

NOVEMBER 16, 2004

TRAILER 214

6:30 P.M.

RBES = END STATES

VARIANCES = ALTERNATIVES

DOE Policy 455.1 – *Use of Risk Based End States* - issued July 2003

October 2003 – Initial meeting with FCAB and Regulators related to RBES

Input Received

- Not receptive to changes in “cleanup” levels or increases in residual contaminants.
- Process will create distractions and resource demands that would detract from cleanup.
- FCP conducted the RBES process 10 years ago during the RI/FS process.

November 18, 2003 - Public Meeting/Distribution of Draft RBES Document

November 21, 2003 - Draft RBES Document submitted to EM-1

February 20, 2004 - Revised Draft RBES Document submitted to EM-1 and Public

October 5-6, 2004 – Workshop related to RBES held in Chicago, Ill.

November 16, 2004 – FCP Final Draft RBES Document Public Meeting and distribution

December 1, 2004 - FCP Final Draft RBES Document Submittal to EM-1

Variances/Alternatives in the Final Draft RBES "End State" Document

Hazard Area 1 – OSDF

Variance 1-a: Consider mixing/blending/averaging the level of soil and debris in calculating the Waste Acceptance Criteria (WAC) for the OSDF as opposed to soils and debris having to meet a "not to exceed" WAC. **NO**

Variance 1-b: Allow leachate at a rate of 1 gpm to discharge into the surface water bodies in the former production area as long as the surface water Final Remediation Levels are met. **NO**

Hazard Area 2 – Subsurface, Soils/Sediments

Variance 2-a: Apply the sediment FRL's (210 ppm uranium) to streams and ponds as opposed to the surface soil FRL (82 ppm uranium). **NO**

Variance 2-b: Segregation of soils during the deep excavations of foundations meeting the Cross Media Preliminary Remediation Goals (100 ppm uranium) and use as fill vs. having to meet the Production Area FRL's (50 ppm uranium). **NO**

Hazard Area 3 – Surface Water/Groundwater

Variance 3-a: Full restoration of the Aquifer to meet uranium drinking water standards (30 ppb uranium), both on-site and off-site. AWWT Facility would be modified to retain the 1800 gpm of the existing 2600 gpm capacity. This will allow early D&D of 90% of the existing AWWT footprint (soil and debris) and placement in the OSDF prior to Closure. **YES**

Hazard Area 4 – Infrastructure

Variance 4-a: Current regulatory agreements require the removal of both outfall lines, cofferdam and other structures at the Great Miami River. The RBES is to leave the "new" outfall line and related structures in place, since this line has only been subject to at or slightly above drinking water standards outflows. **YES**

Variance 4-b: The current regulatory agreements require building foundations, concrete storage pads and parking lots to be removed as part of soil excavation. The Silos Treatment Facility and Tank Transfer Area structure were installed clean. The concrete debris from D&D of the buildings and foundations will be certified clean and used as clean, hard fill for select deep excavations. In addition, all clean rocks and debris currently in Paddys Run will be certified clean and left in place. **YES**